

MEMORANDUM

TO: Legislative Audit Committee Members

FROM: Jim Pellegrini, Deputy Legislative Auditor, Performance Audits

DATE: July 2002

RE: **Follow-up to Performance Audit:
Juvenile Detention
Montana Board of Crime Control (00P-12)**

INTRODUCTION

In October 2000, we presented our performance audit on Juvenile Detention to the Legislative Audit Committee. The report made 5 recommendations to the Montana Board of Crime Control (MBCC). We requested and received information from MBCC on their progress in implementing the recommendations in January 2002. To complete the follow-up project, we interviewed MBCC officials and staff, reviewed facility compliance inspection reports, draft compliance manuals, financial status report forms, and attended the MBCC June 2002 meeting.

SUMMARY OF FOLLOW-UP RESULTS

As can be seen from the following table, MBCC is in the process of implementing the majority of the recommendations.

<u>Implementation Status</u>	
Implemented	2
Being Implemented	3
Partially Implemented	0
Not Implemented	<u>0</u>
Total	5

Those recommendations which have been implemented include simplifying grant reporting procedures and evaluating administrative alternatives for juvenile detention oversight. Recommendations relating to verification of compliance, nonsecure detention incentives and analysis of detention usage regarding the state's responsibility for sharing juvenile detention costs are being implemented.

BACKGROUND OF JUVENILE DETENTION

Title 41, chapter 5, parts 18 and 19, MCA, makes counties responsible for detention and provides for state funding assistance. Two or more counties may establish a juvenile detention region and operate a juvenile detention facility. Statute allows five state detention regions. Regional operating budgets are developed projecting the anticipated costs of detention. For the 2002-2003 biennium, the legislature appropriated \$1.1 million annually to assist counties with the cost of juvenile detention. Statute directs MBCC to

provide grants, within the limits of available funding, to assist counties in establishing and operating detention services.

State law on juvenile detention includes a statement of intent, indicating state funding is provided for alternatives to secure detention, and for cost sharing to prevent excessive utilization and hold down costs. We determined the intent of the law was to establish a process to provide funding incentive to ensure counties implement state and federal detention requirements. Our audit concluded counties implement these requirements through the administrative processes and procedures implemented by MBCC and Montana counties. Audit recommendations focused on improvements to these processes and evaluation of state administrative alternatives for juvenile detention oversight.

Expenditure Reporting and Quarterly Disbursement

Quarterly, regions submit a detention expenditure report showing detention usage and costs from counties within the region. We found reports were not consistent between regions. The report was time-consuming to prepare and did not provide facilities with useful information. MBCC staff also indicated report review was time-consuming and provided limited monitoring value.

Region detention grant language requires counties to retain expenditure documentation which can be audited under the local government audit provisions of Montana law. By relying upon local government audit procedures, other state programs significantly reduced their expenditure reporting effort by reducing the amount of documentation submitted. To improve consistency and provide useful information allowing MBCC to track total costs, expenditure reporting should be simplified. A one-page summary would provide MBCC expenditure information on a quarterly basis.

Prior Audit Recommendation #1

We recommend MBCC simplify grant reporting procedures by developing a summary expenditure document.

This recommendation is implemented.

MBCC developed a one page summary report for each of the five regions segregated by service categories of secure detention, secure detention transportation, non-secure detention, and electronic monitoring. The forms were distributed to the regions and have been in use since January 2001.

Verification of Compliance

Section 41-5-1903, MCA, requires MBCC to monitor compliance with the Youth Court Act concerning juvenile detention. MBCC reviewed compliance reports submitted by facility administrators. Staff compared reported data to statutory criteria to identify noncompliance. However, MBCC staff did not routinely visit facilities to verify information accuracy. The law requires a probable cause hearing within 24 hours, and we identified several concerns regarding hearing documentation, including court orders

which did not reflect the time of day of the hearing, unsigned court orders, and files without any documentation about juvenile hearings.

Prior Audit Recommendation #2

We recommend MBCC:

- A. Establish criteria for detention facilities regarding documentation to verify compliance with the Montana Youth Court Act.*
- B. Revise statute as necessary.*
- C. Conduct periodic visits to facilities to verify compliance accuracy.*

This recommendation is being implemented.

- A. MBCC is developing a Compliance Monitoring Manual which outlines minimum monitoring standards for each type of facility. In addition, MBCC is conducting compliance training for probation officers, jail administrators, sheriffs and detention facility administrators in an effort to increase awareness of state and federal requirements.
- B. MBCC does not yet know whether legislation is necessary.
- C. Detention facilities report data to MBCC for purposes of determining compliance with the Youth Court and Juvenile Justice and Delinquency Prevention Act. MBCC has contracted to conduct annual visits to juvenile detention facilities to verify compliance accuracy.

Nonsecure Detention Incentive

Section 41-5-1904, MCA, allows MBCC to award grants to eligible counties not to exceed 50 percent of estimated costs for secure detention and not to exceed 75 percent for non-secure detention. The 1991 statute includes a statement of intent which indicates the legislature wanted to discourage the use of secure detention and to promote less costly, non-secure community-based programs. According to MBCC data, two to four percent of detention expenditures is used annually for non-secure alternatives.

We found the consensus among detention facility officials was the non-secure incentive did not work. The incentive favors use of secure detention, because 50 percent of a \$150 daily rate is significantly more than 75 percent of a non-secure option which can be as low as \$6 per day for electronic monitoring.

Prior Audit Recommendation #3

We recommend the MBCC:

- A. Review non-secure detention incentives.*
- B. Propose legislation as necessary regarding state-funded use of non-secure alternatives.*

This recommendation is being implemented.

- A. MBCC contracted for a survey to reexamine the need for a non-secure incentive and to determine if detention officials throughout the state choose to retain non-

secure incentives as part of the state statutes. The contractor surveyed 80 individuals associated with juvenile detention including juvenile detention officers, district judges, county attorneys, and probation officers. The survey results were inconclusive. The contractor is re-analyzing the data.

- B. MBCC officials indicated they would present the information to the Board and make a decision on the need for legislation after the survey results are reexamined.

Determination of State Funding Levels

One of the topics discussed with state and local detention officials during the audit involved the level of state funding compared to the total cost of juvenile detention. This included discussion of the potential for the state to cap the number of detention beds or facilities. We did not find consensus regarding state responsibility for juvenile detention costs. Response to questions about limiting the state share of funding generally resulted in discussions concerning the perceived need to "honor" the 50 percent match level addressed in statute for secure detention. County and court officials were in agreement the state should not attempt to cap the number of beds or detention facilities. According to the law, counties are responsible for detention and the consensus was local governments should retain flexibility to develop detention capabilities within the framework of the Youth Court Act.

During the 1999 Legislative Session, MBCC developed historical information on juvenile detention usage and costs to provide a basis for proposing an increase in appropriations. As a result of the growth trend from 1993 through 1998, the MBCC projection indicated a need for more beds and a funding increase. The legislature increased state funding by 40 percent for the biennium. We believe MBCC should expand from the current tracking of historical expenditures to a more proactive role of analyzing statewide detention usage. Analysis should include how detention usage impacts state and local funding and include proposals regarding the state responsibility for sharing detention costs with counties.

Prior Audit Recommendation #4

We recommend MBCC analyze detention usage regarding the state's responsibility for sharing juvenile detention costs to provide information for future budget requests.

This recommendation is being implemented.

MBCC developed a background report on juvenile detention issues. The information in the report was used when MBCC developed budget requests for the 2004-2005 biennium. Based partly on the analysis of the history of the state participation in juvenile detention costs, MBCC requested an additional \$360,000 appropriation. This would have been used to increase the percentage the state pays from an average of between 40 percent to 50 percent of county juvenile detention costs. The request was denied by the Governor's Office of Budget and Program Planning.

Detention Management

The state is currently involved in three juvenile detention related activities: allocation of state funding, compliance monitoring, and facility licensing. Administration of funding and compliance monitoring are functions of MBCC. Licensing is a Department of Corrections responsibility. Officials expressed a variety of concerns with the current delegation of responsibilities, ranging from too much control for licensing to not enough control over compliance. One common theme was to examine the connection between the primary activities: state funding, compliance monitoring and licensing.

For compliance monitoring of Youth Court Act requirements, statute indicates the consequence for continued noncompliance is termination of the state grant. Some officials indicated there should be a similar link between state funding and compliance with licensure requirement; others disagreed. Since the implementation of detention requirements, there has not been a comprehensive review to decide where and how Montana juvenile detention should be administered.

Prior Audit Recommendation #5

We recommend MBCC evaluate state administrative alternatives for juvenile detention oversight and propose changes as necessary.

This recommendation is implemented

In September 2001 MBCC voted to move the juvenile detention program from the MBCC to the Department of Corrections. MBCC considered rescinding this motion at their June 2002 meeting. MBCC voted to keep their original motion and move the juvenile detention program to the Department of Corrections. The Law and Justice Interim Committee has approved drafting a bill in relation to changing program administration to the Department of Corrections.

Department of Corrections' officials have indicated concerns with this change. They are concerned if it will create a conflict between licensing facilities and setting the reimbursement rates for them as they also use the services for youth in their custody.